HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.27536 OF 1997

Dated 28-2-2007

Between:

M.A. Shariff, son of Shariff, aged 40 years, LDC, APSE Board, Visakhapatnam.

..Petitioner.

And:

1. APSEB represented by its Secretary, Vidyut Soudha, Somajiguda, Hyderabad and another.

…Respondents.

ORDER:

This writ petition is filed seeking a mandamus directing the respondents to promote the petitioner to the post of UDC with effect from the date on which unqualified candidates were promoted, if necessary, by effecting reversion of all those unqualified candidates in terms of B.P.Ms.No:664, dated 5.8.1981 and also the decision of the Supreme Court.

It is the case of the petitioner that he joined the services of APSEB with effect from 23-03-1983 as LDC and since then, he has been continuously working in the said post and serving to the satisfaction of one and all. While so, questioning the proceedings in B.P. Ms. No.664 dated 05-08-1981 wherein orders were issued directing that the L.D.Cs., Typists, Steno-typists and U.D.Cs. who have good record of service and who have completed 15 years service in the same post shall be exempted from passing

tests prescribed in the Board Service Regulations Part-III, a pre-condition for promotion to the next higher posts of UDCs, Accountants (now JADs}/Superintendents respectively, certain qualified employees have filed writ petitions which were dismissed by this Court on 30.10.1981. Thereupon, some other qualified employees have filed again writ petition No.8432 of 1982 and Writ Appeal No.675 of 1981 and batch before the Division Bench of this Court and the same were allowed a Division Bench of this Court quashing the orders of APSEB by order dated 7-10-1983. Accordingly, the Board issued orders dated 21-11-1983 for filling up the vacancies by promotion in the category of UDCs, accountants, (now JADs)/Superintendents by the qualified eligible persons duly following the provisions in the Service Regulations. Aggrieved by the same, certain unqualified employees have filed Civil Appeal Numbers 180 and 181 of 1984 before the Supreme Court and the Supreme Court by an interim direction dated 3-12-1984 stayed the judgment of the Division Bench of this Court in so far as the petitioners were concerned. Further it was directed that no officer shall be reverted to a lower rank pursuant to the judgment of this Court. The Supreme Court further directed that the Electricity Board may make promotions which may be necessary, but such promotions will be subject to the decision of the Supreme Court. The Supreme Court passed final orders on 27-2-1996 in the above appeals setting aside the Judgment of the Division Bench of this Court in so far as the relief part is concerned and upheld the order of the Board granting relaxation to the appellants from passing the test. The appeals were allowed to the above extent.

According to the petitioner, in the light of the Supreme Court judgment, the APSEB issued proceedings No: 217 dated 18-1-

1997 wherein it was stated that the promotion from the LDCs to UDCs and UDC to JAO are to be effected from the qualified candidates only. Further in B.P.(P&G.Per)/Ms.No.39 dated 19-05-1997, orders were issued that promotions from LDCs to UDCs and UDCs to JAO will only be considered from the unqualified individuals who cross the age of 45 years. The Board wants to read it with retrospective effect. Hence this writ petition.

A detailed counter has been filed by the respondents stating that the case of the petitioner for promotion as UDC was neither overlooked nor denied. The case of the petitioner would be considered as per his turn and as per the rules. The request of the petitioner for promotion as UDC with effect from the date on which the unqualified candidates were promoted is not as per the Board Service Regulations. In fact, after issuanceB.P.Ms.No:217, dated 18.1.1997, a D.P.C. constituted for the purpose of promotions was met on 21.2.1997 and it has recommended the cases of four qualified L.D.Cs for promotion as UDCs against four existing vacancies. All the cases of the four persons were considered as per rules. But, some LDCs who are working in this circle have filed Writ Petition No.4152 of 1997 before this Court and this Court has issued an interim direction on 6.3.1997 not to effect any promotions to the category of U.D.C. until the seniority of L.D.Cs. is revised. Therefore, the promotion orders issued in Memo No.Ad/A4/D.No:499/97, dated 1.3.1997 have been kept in abeyance. Even the promotions of those four persons, were kept in abeyance. Thereafter seniority of the staff including the petitioner has been revised and communicated to the office. The seniority position of the petitioner stands at Sl.No:239 of Seniority list of L.D.Cs. of operation circle, Visakhapatnam i.e., just below the candidates promoted on 1.3.1997 and his turn for

promotion as U.D.C. under qualified quota has not come up and therefore, his case has not been overlooked.

In view of the above, I am of the opinion that the petitioner has to wait for his turn and the respondents are directed to consider the promotion of the petitioner to the post of UDC as per his turn if not already considered by this time.

Therefore, the writ petition is disposed of accordingly.

_____

Justice C.VRAMULU

Dated 28-2-2007.

Dvs

HONOURABLE SRI JUSTICE C.V.RAMULU

WRIT PETITION No.27536 OF 1997

Dated 28-2-2007.